

Exhibit B

Transcript excerpts from the Deposition of Kenneth Buckfire, dated July 15-16, 2014

1 KENNETH BUCKFIRE, VOLUME 2
2 IN THE UNITED STATES BANKRUPTCY COURT
3 FOR THE EASTERN DISTRICT OF MICHIGAN
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5
6

7 In Re:) Chapter 9

8
9 CITY of DETROIT, MICHIGAN,) Case No. 13-53846

10
11 Debtor.) Hon. Steven Rhodes
12 _____
13

14 VOLUME 2
15

16 The Videotaped Deposition of KENNETH BUCKFIRE,
17 a Rule 30(b)(6) witness,
18 Taken at 1114 Washington Boulevard,
19 Detroit, Michigan,
20 Commencing at 8:09 a.m.,
21 Wednesday, July 16, 2014,
22 Before Leisa M. Pastor, CSR-3500, RPR, CRR.
23
24
25

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2 David Heiman (ph.)?

3 A. That's right.

4 Q. And the subject is Christie's and the DIA. Could you
5 take a few moments to take a look at that to refresh
6 your recollection of that if you need to?

7 A. My recollection is refreshed.

8 Q. Okay. So I'm going to ask you some specific questions
9 but in general. Do you remember this process?

10 A. Yes.

11 Q. What was this e-mail part of?

12 A. Can I ask a question to my counsel for a second?

13 Q. Sure, please.

14 (Counsel confers with witness .)

15 A. Just wanted to make sure. Well, very early on in our
16 engagement with the City, I was made aware of the fact
17 that the Detroit Institute of Arts was effectively not
18 a separate institution but, in fact, was owned by the
19 City, although, it was operated by the DIA Trustee
20 Corporation, the building and collection was
21 technically owned by the City of Detroit. We
22 recognized early on that that would require it under
23 certain scenarios to be valued as a potential noncore
24 asset and dealt with appropriately if it was
25 determined that the City would have to seek protection

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2 under Chapter 9.

3 We, during the spring of 2013, had several
4 meetings with representatives of DIA to alert them to
5 this potential outcome and to explain to them that it
6 might be necessary to monetize or sell the collection
7 under certain scenarios. We then independently
8 determined that in order to satisfy the requirements
9 of the Bankruptcy Code because it would be deemed
10 potentially a noncore asset that we would have to do a
11 valuation of the assets to determine exactly what it
12 might be, because even though Miller Buckfire is an
13 investment bank, we are not experts in appraising art,
14 and have no expertise in that field.

15 There are, regrettably, only two
16 institutions in the world that have the professional
17 capacity to perform an appraisal of a encyclopedic
18 art museum, and by that I mean a museum that has a
19 collection covering a wide variety of genres, periods
20 of history, and countries, and those two institutions
21 are Sothebys and Christie's. We determined we could
22 not approach Sothebys because, unfortunately, a
23 director of Sothebys is also a trustee of the Detroit
24 Institute of Arts, and we viewed that as a potential
25 conflict.

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2 MARKED FOR IDENTIFICATION:

3 DEPOSITION EXHIBIT 30

4 10:36 a.m.

5 BY MR. SOTO:

6 Q. So this is Exhibit 30, and what I've handed you as
7 Exhibit 30 is what appears to be another e-mail from
8 Kenneth Buckfire, date -- time dated Wednesday,
9 October 23rd, 2013, to David Heiman, subject note from
10 Gargaro.

11 MR. MONTGOMERY: Counsel, could you
12 identify the document by Bates number if possible?

13 MR. NEAL: Absolutely. Possibly, it's POA
14 00040759.

15 MR. MONTGOMERY: Thank you.

16 BY MR. SOTO:

17 Q. Are you familiar with this e-mail?

18 A. I am.

19 Q. Who is Mr. Gargaro?

20 A. He was at the time, he may still be the chairman of
21 the Board of Trustees of the Detroit Institute of
22 Arts.

23 Q. And how do you know him?

24 A. I met him for the first time at a meeting in Detroit,
25 I believe in May of 2013 when we first became aware of

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this issue, so in this e-mail on the second page, which is page 760 in the Bates stamp, page 2 on the e-mail, in the first full paragraph on that page, Mr. Gargaro writes to you Ken, when you and I spoke last Friday, October 11th, you asked me to follow up with my key contacts in Wayne, Oakland, and Macomb Counties to measure reactions for the possibility of special additional millage, the proceeds of which could be used by the EM, which I assume means emergency manager --

A. Yes.

Q. -- in exchange for transferring the DIA to an authority or a similar vehicle to protect it from any future Detroit creditor exposure. Do you recall that --

A. Yeah.

Q. -- exchange?

A. I do.

Q. And did you respond to his inquiries regarding that exchange?

A. Not subsequent to these e-mails, no.

Q. So in October, Mr. Gargaro was communicating with you about taking an asset off the table, correct?

A. In exchange for adequate compensation to the City for

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2 doing so, yes.

3 Q. And the adequate compensation was going to come in the
4 form of an additional millage was that what he was
5 proposing?

6 A. That was one of the possibilities yes.

7 Q. Were there other possibilities that he proposed?

8 A. No, but that I proposed.

9 Q. What were the other possibilities that you proposed?

10 A. That they raise enough money from their trustees and
11 other community members to justify conveying the
12 collection into an authority which is indeed the path
13 they've taken and when you raised that back in October
14 of 2013, had you done an analysis of what the value
15 would have to be to justify that kind of an asset
16 being taken off the table.

17 A. No, because the Christie's valuation wasn't available
18 at that time.

19 Q. Was it being done at that time?

20 A. Yes.

21 Q. So you were awaiting the Christie's valuation?

22 A. Correct.

23 Q. Other than the Christie's valuation, were there any
24 other factors that you took into account in
25 determining what would be the proper value necessary

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2 Miller Buckfire regarding the value of that asset to
3 the City?

4 A. Not in October. We had, obviously, conversations with
5 Christie's about what other alternatives might be
6 available to create value for the City from this
7 collection, and I asked them to review those
8 possibilities as part of their public report when
9 their valuation was made public, which they did.

10 Q. And as part of their report, they mentioned some other
11 alternatives?

12 A. They did.

13 Q. Can you recall what those were?

14 A. One of them was putting certain elements of the
15 collection out on tour and getting, in effect, touring
16 fees for that or leasing parts of the collection to
17 other museums, we asked them to look at, you know,
18 taking parts of the collection that were never on
19 display and consider monetizing those. We tried to be
20 as open-minded as possible about all sources of cash
21 realization from the collection.

22 Q. In connection with your retaining of Christie's, did
23 you tell them to be as open-minded as they could be?

24 A. I did.

25 Q. Let me hand you another exhibit, and I know we've been

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2 BY MR. SOTO:

3 Q. Chronologically, when you -- before Christie's, what
4 did you learn about DIA?

5 A. Well, I learned from their public information the
6 breadth the and Department of their collection which
7 is public, I should mention I visited many times when
8 I was growing up here, so I was familiar with the
9 institution, any ways. So I didn't need a lot of
10 learning about it.

11 We looked at the publicly available
12 information, their website's quite up to indicate date
13 and spans I have it does have financial statements and
14 annual reports and we began to study what we could
15 publicly available about this and it mentioned we did
16 not initially contact the DIA, I believe it was not
17 until April or May to let them know that as we were
18 progressing in our planning we wanted them to
19 understand that there was a risk that we would have to
20 recommend among other alternatives taking steps to
21 monetize the collection.

22 Q. Did you come to any generalistic understanding of the
23 value of that asset pre-Christie's?

24 A. No.

25 Q. In connection with your learning curve on the DIA and

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2 cooperation of the operators and the trustees than
3 over their objections because they made it very clear
4 to us that they would fight us to the ends of the
5 earth if we touched the collection even though it
6 belonged to the City.

7 Q. Let me -- let me give you an again this is related to
8 the DIA there's all going to be under that subheading.
9 This is an e-mail --

10 MARKED FOR IDENTIFICATION:

11 DEPOSITION EXHIBIT 31

12 11:14 a.m.

13 A. This is a vacation. I don't have to talk about DWSD
14 for a while. This is great.

15 BY MR. SOTO:

16 Q. Exhibit 31, and I will tell you the Bates number, it
17 is POA 00041062. And it is an e-mail from -- from
18 Kenneth Buckfire to Gene Gargaro, dated Monday, April
19 29, 2013, subject, DIA visit. Simple statement in it
20 and very consistent with your personality here in this
21 deposition, you say the DIA is an important cultural
22 asset and the board should be proposing something
23 dramatic, not just about refurbishing the parking
24 garage. What did you mean by that?

25 A. That's the first time I've laughed in two days.

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2 MR. HACKNEY: I was going to say we were
3 aligned with you on that one, Mr. Buckfire.

4 A. I had a meeting with them, and they said well, what do
5 you think we should do? I said well, you notice that
6 the parking garage is dilapidated and condemned
7 because nobody spent any money on it. Why don't you
8 offer it as part of your proposal to spend the money
9 to renovate it so people will come visit your museum,
10 and they said oh, what a great idea, and I said no,
11 but you got to do more than that.

12 Q. Okay. So this was your meeting with Mr. Gargaro where
13 you were again discussing some alternatives with
14 respect to the maximization of that asset?

15 A. Yeah, this was after our first meeting, actually, we
16 had had a first discussion of the issues, and I had
17 urged them to think about doing something that would
18 justify conveying the collection into an authority.

19 Q. And at this point, you didn't have -- you still or --
20 you know what, let me ask you the question instead of
21 answering it.

22 Did you have any idea in your head at this
23 point around April 2013, April 29, 2013, of, you know,
24 gee, what would be the right value that the City would
25 need to get in order to be able to convey that asset?

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2 A. No, we had no idea, just it would have to be a big
3 number.

4 Q. When did the -- I know I have this somewhere in my
5 papers, but do you have in your head when Christie's
6 actually came out with its assessment?

7 A. I think it was right -- right around the -- well, I
8 first learned of their range before it was published,
9 sometime in November, and then the published report, I
10 believe came out end of November, early December.

11 Q. Of 2013?

12 A. Yes.

13 Q. Okay. So -- and I think you might have already
14 answered this, did you have anything in particular in
15 mind when you used the word dramatic?

16 A. A big number.

17 Q. Okay. This is -- these have become sort of favorite
18 phrases, I've been to just a few hearings on this
19 matter, but I've heard these questions asked, so I'm
20 going to ask you since I've heard other people ask
21 them. Do you know if Miller Buckfire and you did
22 anything to find out what the 100 most valuable pieces
23 of art were in the DIA?

24 A. Me personally?

25 Q. Well, not just you personally, but you and/or Miller

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2 Buckfire, did you guys undertake any other steps other
3 than undertaking Christie's?

4 A. No, we're not experts in this field, we have no basis
5 upon which to make that judgement.

6 Q. And I assume that the answer is still the same, but
7 I'll ask again. Do you know if you or Miller Buckfire
8 took any steps to try to figure out which of the
9 pieces of art were valued at more than a million
10 dollars, you know, which -- or which were
11 considered -- let me strike that and start again.

12 Let's start it this way: Do you know if
13 you or Miller Buckfire took any steps to find out what
14 the 100 most valuable pieces of art were within the
15 DIA collection?

16 A. No, aside from retaining Christie's.

17 Q. Do you know if you or anyone at Miller Buckfire took
18 any steps to determine which of the pieces of art
19 within the DIA had some restrictions on alienation or
20 use or transfer?

21 A. No.

22 Q. And again, you would have been relying on Christie's
23 for some of those things?

24 A. Correct.

25 Q. So as you sit here today, do you know if Christie's

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2 testified at length about the -- I don't have it, I
3 just skipped over, like, five pages of questions, but
4 in general terms, what was your understanding of the
5 DIA settlement that was going to be a part of the
6 Grand Bargain? And I'm not asking you to disclose
7 attorney-client privilege or mediation stuff.

8 A. Well, from a financial perspective, it incorporated
9 the following elements, first, that the millage which
10 funds a large part of the operating expenses of the
11 DIA would be maintained by the three counties which
12 originally had passed the legislation to impose it.
13 That's, of course, of material benefit to the City,
14 because it means we don't have to come up with 20 or
15 \$25 million a year to pay for operating expenses; that
16 would be maintained.

17 Second, that a -- a collection of local
18 foundations, the board of trustees, and the State
19 would contribute over time a very material amount of
20 capital to the plan, which would be consistent with
21 the valuation range of the Christie's report, which
22 from my perspective, was very important because until
23 we actually had an appraisal and we had facts on which
24 to assess any offer for the collection, we would not
25 know whether the offer was fair to the City, and

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2 because the amount of money being offered was in the
3 high end of the range of their report, I was quite
4 comfortable, rather, that it was fair to the City.

5 The amounts of money being provided by the
6 State by foundations and trustees was around \$800
7 million, clearly, because those amounts can be
8 regarded as gifts because we haven't sold the
9 collection, the structure of it from a financial
10 perspective was to provide those moneys to the pension
11 funds directly, and what the State required was that
12 those parties, namely, the pension funds and the
13 retirees, dropped and -- or not proceed with any
14 litigation against the State post emergence, which
15 they viewed, that is, the State as a very material
16 consideration in exchange for funding solving. Those
17 are the principal economic elements.

18 Q. Okay. In connection with -- I appreciate your
19 testimony now, and then some things have transpired
20 since then, and for example, now there are additional
21 analyses done by the City of the art at the DIA
22 including art if he is and I know you testified that
23 you have and read it do you know if anybody at Miller
24 Buckfire is doing an analysis is undertaking an
25 analysis of whether or not that new art that's

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appraisal or analysis whatever it is should affect, you know whether or not the value that's being or the the value of the Grand Bargain is recognizing the true value, maximizing the true value of the DIA and the art, I don't even think we've received a copy of it so the answer is no.

Q. Is that something you would want to do in connection with your assistance of the City as the investment banker in connection with all the work you've done to make sure this plan is the way --

A. Yes, it's simply because we just haven't had the time to get to it that we haven't reviewed it yet but we haven't even received a copy so...

Q. If you've testified about this, tell me and for some reason it's seemed similar in my head, but do you recall alternative -- alternative transactions that you evaluated and considered that were alternatives to the DIA settlement?

MR. CULLEN: I believe he did testify to some of those earlier.

BY MR. SOTO:

Q. That's what I'm wondering if he can --

A. Well, yes, we've reviewed with Christie's assistance other alternatives that have been proposed by others

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2 Q. And I think you've answered this question before but
3 you are familiar with the disclosure statement,
4 correct?

5 A. I am.

6 Q. Could you take a moment or two just to review this
7 page with me and ask you to read it.

8 So looking at it, are you familiar with the
9 four indications of interest that are laid out there
10 on page 157 that start with this catalyst acquisitions
11 L.L.C. and the next one is art capital group L.L.C.,
12 the next one is Polly international auction company
13 limited and the next one is one management Hong Kong
14 limited?

15 A. All household names.

16 Q. I'm asking if you're familiar with those -- what was
17 presented by those entities?

18 A. Well, I've never been given the statements of
19 interest, the nonbinding proposals so I'm only
20 familiar with what's been reported here in the TOA.

21 Q. So it was closed in the disclosure statement simply to
22 let everybody know that it had happened?

23 A. That's correct.

24 Q. Did you follow up with any of these to determine
25 anything more about the work that they had done or

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2 their level of interest?

3 A. No, in order err Houlihan never contacted me or any of
4 our bankers to give us any of the specifics about any
5 of these proposals, to my knowledge.

6 Q. Would you have been interested enter an alternate
7 proposals like the ones that are being laid out here?

8 A. Well, normally I would, but you know when you look at
9 the way they were captioned as nonbinding indications
10 of interest, I wouldn't put much value on such a
11 proposal. That would call into question their
12 ultimate willingness to close on a transaction and
13 indeed their interest in the first place. And they
14 were never provided to me either, so that tells me
15 that there's something straining about this whole
16 process.

17 Q. Did you reach out to Houlihan to say hey, guys, do you
18 have anything more than this?

19 A. They've never contacted us.

20 Q. I know I got that part of it, I was asking you if you
21 reached out to --

22 A. No, I haven't called.

23 Q. Did anyone else at Miller Buckfire call them to try to
24 find out anything about the deals?

25 A. Not to my knowledge. But they're not deals; they're

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2 nonbinding indications of interest.

3 Q. Okay.

4 A. That's a long way from being an offer.

5 Q. These nonbinding indications of interest, let me
6 correct?

7 A. Correct.

8 Q. So no one at Miller Buckfire ever asked about them
9 either?

10 A. They're nothing more than what they say they are which
11 is maybe we'll buy it maybe for this price.

12 Q. But is it true for an investment banker that's trying
13 to maximize an asset to not even call to try to find
14 out, well, gee, what are you guys proposing? What is
15 this?

16 A. Well, this is an effort undertaken by Hoolihan Lokey
17 (ph.) which of course is a banker to certain creditors
18 of the City of Detroit. We had assisted the emergency
19 manager in negotiating the so-called Grand Bargain,
20 which will generate demonstrable and concrete value
21 for this collection which is a fact plan to take into
22 account. These are nothing more than nonbinding
23 indications of interest a long way from being a -- a
24 value that one could depend on for purposes as serious
25 as a plan of adjustment.

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2 Q. So then let me -- I understand that's your view.
3 Apart from these that are listed in this disclosure
4 statement, were there other entities, I mean did this
5 whet your appetite to think well, maybe there are
6 other entities who would really be interested in the
7 asset that we should contact to try to maximize the
8 value of it. Recognize we're talking about these, did
9 you try to contact anybody who might be involved in
10 the art monetization world to try to see well, what do
11 you guys think about the DIA art?

12 MR. CULLEN: Subsequent to the -- to
13 receiving or being made aware of these expressions of
14 interest.

15 MR. SOTO: Well, I actually was going to
16 try to do it chronologically, so I --

17 MR. CULLEN: Oh, okay.

18 MR. SOTO: I was going to say at all and
19 then the substance into it but first at all?

20 A. No.

21 Q. Yeah, I'm done with that although, I will be asking
22 some additional questions.

23 So under the plan of adjustment switching
24 gears now, the City is transferring the entire art
25 collection and the building in exchange for

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2 Q. The docket page is 197?

3 MR. CULLEN: 173 of 197.

4 BY MR. SOTO:

5 Q. Oh, I'm sorry, 173, so I think if we get to the page
6 to the paragraph that says DIA settlement?

7 A. Yes.

8 Q. And that last settlement sentence of that first
9 paragraph as of the date of filing of this disclosure
10 statement the foundations had tentatively agreed to
11 pledge at least 366 million in foundation funds
12 payable or over a period of 20 years?

13 A. Right.

14 Q. In support of this agreement?

15 A. That's right.

16 Q. Do you know if that's changed at all in connection
17 with the plan?

18 A. Not to my knowledge.

19 Q. So it's 360 million over 20 years?

20 A. Correct.

21 Q. And in addition to the foundations, the DIA Corp. is
22 also committed to giving a hundred million over 20
23 years, correct?

24 A. Correct.

25 Q. And in determining whether or not you had maximized or

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you were maximizing the value of that asset in connection with this exchange, did you do calculations to determine well, gee, what is the value of somebody giving you 366 million over 20 years and somebody else giving you a hundred million over 20 years, what does that come out to in present terms, did you do that work?

A. No.

Q. Do you know if anybody at Miller Buckfire did?

A. No. Well, yes, I'm sorry, yes, no one has done the work.

Q. Okay. And can you -- can you tell me why -- wouldn't you want to know you're taking the art today, what are they giving me today?

A. Mm-hmm.

Q. Would you want to know that?

A. In certain circumstances I would, but one of the elements of the Christie's valuation which you haven't asked me yet is over what period of time they would anticipate monetizing the collection to realize those values if indeed we had directed them to do so so even though they gave us a valuation range which is in the POA, I don't believe they stipulated in this analysis or this report how long it would take and what they

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did tell us which I believe is in their original report, it would take several years to quote monetize the value of the art that they reflected in their range so the range in and of itself is not present value adjusted and for that reason we did not feel necessary to calculate the present value of the payment stream relative to the value of the art because the art rate, itself, was perhaps not done according to Black Sholes (ph.). It's a number but it's a number with a lot of judgement around when you would realize that. That also was a function of the wide nature of range gap. I mean it's a pretty wide range.

Q. So it's your understanding, and I want to to make sure what you said when Christie's gave these values, they weren't saying that's the value of that piece of art if you want to buy it today?

A. That's correct, they're saying when we go and properly find the art and find the right buyer there might be one buyer in the world for every piece, we believe this is the price we'll get for you.

Q. And do you know where in their report they -- they indicate that?

A. I'd have to go back and reread it, they certainly told